

FEBRUARY 25, 2008

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**KIM FRACHEY, NANCY MALONEY,  
SOCORRO NIETO, CHAD FLOLO,  
NATALIE FLOLO, CHARLES  
AMANING, and FOX VALLEY  
FAMILIES AGAINST PLANNED  
PARENTHOOD, an Uncorporated  
Association,**

**Plaintiffs,**

**v.**

**PLANNED PARENTHOOD/CHICAGO  
AREA, an Illinois Not-for-Profit  
Corporation, STEVEN TROMBLEY,  
GEMINI OFFICE DEVELOPMENT, LLC,  
An Illinois Limited Liability Corporation,  
21<sup>ST</sup> CENTURY OFFICE  
DEVELOPMENT, LLC, an Illinois Limited  
Liability Corporation, CITY OF AURORA,  
A Home-Rule Municipal Corporation,  
ZONING BOARD OF APPEALS FOR  
THE CITY OF AURORA, ED SIEBEN,  
THOMAS WEISNER,  
HERMAN BENEKE,  
PLANNING & DEVELOPMENT  
COMMITTEE OF THE CITY OF  
AURORA, PLANNING COMMISSION  
OF THE CITY OF AURORA, and  
BUILDING CODE BOARD OF APPEALS  
OF AURORA,**

**Defendants.**

**TRIAL BY JURY DEMAND**

**Case No.**

**JUDGE NORGLÉ  
MAGISTRATE JUDGE DENLOW**

**08 C 1148**

**NOTICE OF REMOVAL**

Defendant, CITY OF AURORA, by and through its attorneys, KLEIN, THORPE  
AND JENKINS, LTD., presents this Notice of Removal requesting the removal of this  
case originally filed in the Circuit Court of DuPage County, Illinois, to the United States

District Court for the Northern District of Illinois, Eastern Division, pursuant to 28 U.S.C. §§ 1441 and 1446, and in support thereof, states as follows:

1. On February 13, 2008, Plaintiffs filed this cause of action in the Circuit Court of DuPage County, Illinois, as Case No. 2008 MR 000261. A copy of the initial process served, known pleadings and known orders, if any (none of which are known to have been entered in this case), are attached hereto, pursuant to 28 U.S.C. § 1446(a), and referred to herein as *Exhibit A*.

2. The causes of action filed by Plaintiff are civil actions of which this Court has original jurisdiction under the provisions of 28 U.S.C. §§ 1331 and 1343, and are further actions which may be removed to this Court by Defendant City of Aurora pursuant to the provisions of 28 U.S.C. §§ 1441 and 1443, in that Counts III and VI of Plaintiffs' complaint are actions brought for alleged violations of Plaintiffs' constitutional rights under 42 U.S.C. § 1983.

3. The notice of removal does not require the consent of the other defendants in this matter because the § 1983 claims presented in Counts III and VI, which are alleged solely against Defendant City of Aurora, are separate and independent from the nonremovable causes of action set forth by Plaintiff. Therefore, under 28 U.S.C. 1441(c), this notice of removal properly is submitted only by Defendant City of Aurora.

4. Defendant City of Aurora first received notice of the state court action by service of summons on February 13, 2008, and this Notice of Removal is timely filed within the thirty day period prescribed in 28 U.S.C. § 1446(b).

Respectfully submitted,

CITY OF AURORA

By: /s/Allen Wall  
One of its attorneys

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